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ADJUDICATION BOARD
RELATIONS BOARD

Hugh J. Perry, Arbitrator

Award issued: March 8, 2002

EMPLOYEE ORGANIZATION.

FOR AFSCME LOCAL 620:

Tom Anthony, Bargaining Representative

AFSCME Local 620 represents a bargaining unit comprised of 403 blue collar workers in various departments in the City of Cedar Rapids, Iowa's second largest city, 2000 population 120,758. The parties are concluding a two year contract dated July 1, 2000 to June 30, 2002. There are seven other bargaining units in the city. Six have settled their contractual differences with the City this bargaining year. The six settled units have agreed to a 3.25% wage increase. All except the firefighters have either this year or in previous bargaining agreed to a Flex-Leave plan similar to that proposed by the City here. This year the parties, unable to resolve all of their contract differences, have bypassed Factfinding and proceed directly to binding Arbitration under which the Arbitrator, following consideration of the factors set forth in Section 20.22(9) of the Public Employment Relations Act must award the position of the party on each impasse issue deemed the most reasonable. A hearing was held on February 22, 2002 at the public works building in Cedar Rapids. AFSCME Local 620 had filed a Petition for Expedited Resolution of Negotiability Dispute on February 21, 2002 with the Public Employment Relations Board. The PERB issued a preliminary ruling on February 28, 2002. A copy of the ruling was provided the undersigned. The Board's ruling declared parts of the City's Leaves of Absence proposal (Flex-Leave) permissive and determined that the City's proposal characterized as an Insurance issue was in fact a Wage proposal.

The Impasse Issues before the Arbitrator are: *Wages, Leaves of Absence, Shift Differential* and *Insurance*.

PROPOSALS OF THE PARTIES

CITY PROPOSALS:

Wages: A 3% wage increase effective July 1, 2002. If health insurance rates go up 10% to 20%, the negotiated wage increase will be reduced by .25%. If the rates go up in excess of 20%, the negotiated wage increase will be reduced by .5%. (The underlined part of this proposal was presented by the City as an Insurance proposal, but was deemed Wages by the PERB.) Add: 2 year move from Traffic Engineering Signal Tech I to Traffic Engineering Signal Tech II after successful testing.

Leaves of Absence: The implementation of a Flex-Leave Plan similar to that in 6 other City contracts. Effective date January 1, 2003. A copy of the City's Flex-Leave proposal is attached. It is noted that some of the proposal was deemed permissive by the PERB. The language in the proposal ruled permissive is highlighted.

Shift Differential: Change Schedule B language to read "These differentials will be paid to those employees who are scheduled to work 2nd Shift - Late afternoon through evening hours 3rd shift - Overnight hours

UNION PROPOSALS:

Wages: A 3.25% increase effective July 1, 2002.

Leaves of Absence: Add to Section 20.1- Employees absent for medical reasons shall automatically retain all seniority rights for two years following their last day on paid status.

Insurance: Health and Welfare - add to Article 16.4: Employees absent from work for medical reasons shall automatically retain all seniority for two years following their last day on pay status.

CURRENT CONTRACT

Wages: The current contract provides for Grades 8 through 30. For each grade there are 3 steps beyond entry wages. Employees move after 12 months and top out after 36 months. The lowest Grade, Grade 8 provides for Entry wages of \$10.48 per hour. The top rate for Grade 8 is \$12.81 per hour. Grade 38 provides of entry wages of \$17.16 per hour and top pay of \$21.35 per hour. Certain jobs command premium pay of an additional \$.15 per hour i.e. puddling, cement saw or jackhammer, mud jack or oil crew. There is also a shift differential discussed below. These employees have received a 3.25% wage increase for each of the previous two contract years. The average wage in the bargaining unit is \$16.64 per hour or \$34,611.20 annually.

Leaves of Absence: The parties contract provides for traditional leaves: sick leave (accrual 1 day for each month of service, unlimited accrual, verification may be required if suspected abuse, may be used for spouse or children, one hour minimum charge, may be donated to fellow employee on medical leave who has exhausted all paid leave), job injury sick leave, maternity leave, funeral leave, voting and military leave. Two personal days are provided under Holidays (13 total) and employees can earn up to 5 weeks of vacation after 17 years of service.

Shift Differential: The contract currently calls for a shift differential of \$.20/hour for 2nd shift (3:00 P.M. -11:00 P.M.) and \$.30/hour for 3rd shift (11:00 P.M. -7:00 A.M.) Differentials are paid to employees whose work begins within these shifts.

Insurance: The City is self funded for health insurance. It provides a PPO entitled Alliance Select, administered through Wellmark. The plan pays 90-10 for services within the network and when a the cap of \$500.00 is reached, the plan pays 100%. Employees pay \$5.00 per month for the single plan and \$10.00 per month for a family plan on a pre-tax basis. Current monthly insurance rates are \$194.82 Single and \$467.60 Family. Section 16.4 provides that the City shall provide Group Disability Insurance for all employees which provides 66 2/3% of gross pay after a 90 calendar day waiting period.

CONTENTIONS OF THE PARTIES AND DISCUSSION

WAGES

The City urges that its wage proposal of 3% is reasonable and in line with what the other large Iowa Cities are paying comparable employees. The City utilized the Iowa cities of Des Moines, Council Bluffs, Davenport, Dubuque, Sioux City, Iowa City, and Waterloo for comparison purposes. It objected to the Union's inclusion of Ames and West Des Moines. The City notes that as a group, these employees rank 3rd in the state and that some of these employees are the highest paid in the state. The City points out that its police employees also rank 3rd in the state when comparing wages. The City points out that the cost of living for the last year for Urban Consumers was 1.1% and that its proposal was well above that. Further the City points out that it has picked up a 5% increase in insurance for each of the previous two years and that it will absorb the same percent for the next fiscal year. The City urges that if insurance rates increase by more than 10% that the wage increase of 3% be diminished by .25% to 2.75% and if insurance rates increase by more than 20% the wage increase will be decreased by .5% to 2.5%. The City argues that this would provide some assistance to the City in meeting premium costs and would not decrease monies the employees are accustomed to receiving in their paychecks. The City introduced the following settlement data: Council Bluffs, 3.3%, Davenport 2% + 2% deferred match, Des Moines 3% + 2% VEBA (account for health insurance when employee retires), Dubuque 5.68%, Iowa City 3.25%, Sioux City 3.25%, Waterloo 3.5%.

The Union proposes a 3.25% wage increase. Its comparable cities included those advanced by the City and Ames and West Des Moines additionally. The average wage increase for July 1, 2002 is 3.37%. The Union resisted the City's proposal to reduce wages if health insurance costs increased by more than 10%. The Union noted that other City bargaining units had settled for 3.25%

Discussion. A 3.25% wage increase is justified by the data, both internally and externally. Other comparable cities are adjusting their blue collar wages similarly. Other City units have settled for a 3.25% wage adjustment. While understanding the City's desire to get a handle on increasing health insurance costs, it was not pointed out that any other City unit has agreed to a wage diminution if insurance costs increase more than 10% or that comparable employees in similar communities have agreed to such a provision. The projection of a 5% insurance increase makes it

somewhat unlikely that this provision would have effect over the life of the next contract. The Union's wage proposal is the most reasonable position on wages. It is awarded.

LEAVES OF ABSENCE

The City proposes a Flex-Leave plan (a copy is attached to this award). A portion of it has been determined permissive by PERB (highlighted portion). It notes that all other City bargaining units have agreed to such a plan with the exception of the Firefighters to whom it was not offered due to those employees unusual work schedules. The City notes that its proposal will combine vacation, personal holidays, funeral leave and sick leave into a generous time off benefit which will allow employees to manage their own time, trade accrued time for cash if they choose, carry time into the following year and be able to access paid leave time as it accrues monthly instead of being required to wait until January 1. Under its proposal employees would be allowed to call in 5 times per year just prior to their shift and use the time off as they choose. The plan provides for the accumulation of excess leave into a long term illness and injury account which can be used before long term disability insurance is used. The employer is removed from a decision making situation in several areas including sick leave issues and will be able to better prepare a daily work schedule. The City notes that some City employees have been under the plan for several years and that it is working well. The City contends that this unit has not even been willing to discuss the plan. The City noted that its proposal calls for a review of the plan and an opportunity to negotiate changes and, if necessary, to employ arbitration to effect change in the plan. The City indicated that it had been told "the guys aren't interested in it because they like being able to call in in the morning". The City contends that the average annual sick leave usage for employees in this unit is 70 hours.

The Union resists the implementation of the City's Flex-Leave plan. It notes that it has discussed this plan in essentially the same form with the City over the last several years and that it has concluded that the present contractual leave provisions will better serve its members. It notes that the City has provided no strong financial reasons for the implementation of this plan nor alleged serious abuse of the current leave provisions, only that it considers its plan to be a better one. The Union notes that among comparable cities, only Davenport has a Flex-leave plan similar to that proposed here by the City. A petition was presented indicating that the great majority of employees were opposed to the City's Flex-Leave plan. The Union asks that the current leave provisions in the contract remain unchanged, with the one exception that the language: "Employees absent from work for medical reasons shall automatically retain all seniority for two years following their last day on pay status" be added to Article 20, Leaves of Absence.

Discussion. The City's Flex-Leave plan has many features to commend it, discretion to use leave without challenge, simplification in managing employee's leave time, the ability to negotiate problems with the plan and to implement arbitration, if necessary. Perhaps the most attractive part of the plan, the ability to receive payment for accrued leave on termination of employment and the ability to convert up to 48 hours to cash providing the long term Illness or Injury account is at 520 hour were determined to be permissive and are thus not part of the City's proposal here. Presumably, the City would offer these permissive features to these employees if they accepted the balance of the plan. Other City employees have seen the plan to be attractive and have voluntarily agreed to incorporate the same into their contracts. This unit has declined. There is but one similar plan in

existence among other comparable employers and employees. I am persuaded that a contract provision of this magnitude should be voluntarily negotiated between the parties. The City contended at hearing that a reason these employees are opposed to the plan is that they do not understand it. The Union advocates indicate that they understand the plan very well and are opposed to it. Overall, I am persuaded that this is a plan to which the parties should mutually agree. It is not one which should be imposed upon a party. It is not a plan that should be imposed without the attractive cash out provisions deemed permissive by PERB. Standing alone, I would not award the Union's language providing for retention of seniority for two years for employees absent from work for medical reasons. But insofar as this has been characterized as a leave proposal by the union and as such characterization is unchallenged by the City and because I am disinclined to award the City's Flex-Leave proposal, the Union language as proposed shall be added to the current Leave article.

SHIFT DIFFERENTIAL

The City proposes that the shift differential language be changed to define 2nd shift as "Late afternoon through evening hours" and the 3rd shift as "overnight hours". The City acknowledges that its proposal is aimed at addressing one employee who is required by his job to report to work at 6:00 A.M. and therefore because his work begins in the 3rd shift is entitled to 3rd shift premium pay although the majority of his shift is during the day.

The Union notes that it offered a proposal at bargaining that would have resolved this problem and that the language of the City is too vague in setting the hours to which a differential attaches.

Discussion. I am not certain that it is wise to change this language just to address one employee in a bargaining unit of over 400. It would appear that the parties could come up with language which accommodates this concern. The Union's position on Shift Differential which is to retain the current contract language is the most reasonable and is awarded.

INSURANCE

As discussed above, the City presented an Insurance proposal at hearing that has been determined to be a wage proposal by PERB. Accordingly, the City's position on Insurance without such language is current contract or status quo.

The Union presents as an Insurance proposal to be added to Section 16.4, the Group Disability Insurance provision, the following language: "Employees absent from work for medical reasons shall automatically retain all seniority for two years following their last day on pay status".

Discussion. I find the City's proposal on Insurance which is to retain the current language and benefit to be the most reasonable of the proposals on Insurance before me. It is awarded.

AWARD


WAGES - Union proposal, a 3.25% wage increase effective July 1, 2002.

LEAVES OF ABSENCE - Union proposal. Current language except add the following to Article 20, Section 20.1 - Employees absent for medical reasons shall automatically retain all seniority rights for two years following their last day on paid status.

SHIFT DIFFERENTIAL - Union proposal, current contract.

INSURANCE - City proposal, current Contract.

Signed this 8th day of March, 2002


Hugh J. Perry, Arbitrator

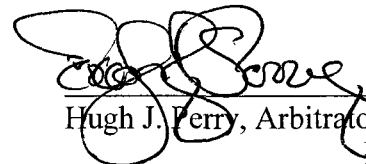
CERTIFICATE OF SERVICE

I certify that on the 8th day of March, 2002, I served the foregoing Award of Arbitrator upon each of the parties to this matter by mailing a copy to them at their respective addresses as shown below:

Judy Perkins
City of Cedar Rapids
51 First Ave. Bridge
Cedar Rapids, Iowa 52401

Tom Anthony
AFSCME Local 620
1425 8th Ave. SE
Dyersville, Iowa 52040

I further certify that on the 8th day of March, 2002, I will submit this award for filing by mailing it to the Iowa Public Employment Relations Board, 514 East Locust Street, Suite 202, Des Moines, Iowa 50309.


Hugh J. Perry, Arbitrator

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RELATIONS BOARD

**Appendix A
FLEX-LEAVE POLICY
AFSCME BARGAINING UNIT**

BACKGROUND

All paid leave will be included in one policy that will allow greater flexibility for employees and easier administration for the management staff. With a few exceptions, employees will manage their own paid leave. The policy will include two (2) leave accounts: 1)FLEX-LEAVE Account and 2)Long-Term Illness/Injury Account (LTII). The Long-term Illness/Injury account is correlated to the Long-Term Disability (LTD) insurance waiting period of ninety (90) calendar days or five hundred and twenty (520) regular scheduled work hours.

POLICY

It is the policy of the City of Cedar Rapids to provide a FLEX-LEAVE program that will include all paid leave except as listed below.

EXCLUSIONS

This policy DOES NOT include nor does it apply to: 1)compensatory time, 2)pay for work performed on a holiday, 3)regularly scheduled holiday, ie: Christmas, New Year's Day, Thanksgiving, etc., 4)worker's comp, 5)jury duty, or 6)military leave.

SCOPE

This policy is applicable to all AFSCME bargaining unit employees.

EXCEPTIONS

Any employee on an unpaid leave of absence in excess of thirty (30) days will not accrue FLEX-LEAVE or Illness/Injury leave. Accrual will apply to the first thirty (30) days only.

DEFINITIONS

1. **ANNIVERSARY DATE:** employee's last date of hire as a regular employee with the City.
2. **FLEX-LEAVE ACCOUNT:** current accumulations of paid leave.
3. **LONG TERM ILLNESS/INJURY ACCOUNT:** Accumulated paid leave **ACCESSED ONLY** as a result of illness/injury after forty (40) consecutive hours (pro-rated for part-time employees) of FLEX-LEAVE for medical purposes. Employees on a concentrated medical treatment program (ie: chemotherapy regiment, etc) may be eligible to access for the time spent in treatment without meeting the forty(40) consecutive hour requirement.
4. **SCHEDULED LEAVE:** This paid leave requires notification by the employee and approval received from the Department head or designee no later than the end of the employee's previous work day or what would have been the end of the previous work day had the employee been scheduled to work. Approval of



scheduled leave by the department head or designee is subject to the operational needs of the department. A waiver of such notification includes if an employee must leave work due to illness or other emergency situation. Employees with a diagnosed, chronic illness that is certified by the attending physician in advance, may be granted, at the discretion of the department head, additional scheduled leave. Such employee will be required to co-operate fully in order to qualify. An employee is not required to use FLEX-LEAVE for the day of the funeral of a spouse, parent, child, sibling, grandparent, grandchild or domestic partner if the funeral is on a day an employee is normally scheduled to work.

5. **UNSCHEDULED LEAVE:** This paid/unpaid leave requires that notification must be provided to the Department head or designee prior to the employee's work day. Approval of unscheduled leave is subject to operational requirements of the department.

SPECIFIC PROVISIONS

1. Employees will have two (2) paid leave accounts:
 - a: **FLEX-LEAVE Account**
 - b: **Long-Term Illness/Injury Account**
2. Employees will accumulate paid leave in their FLEX-LEAVE Account on a monthly basis, the first pay day of the month according to the following schedule (part-time accrue on a pro-rata basis):

completion of 1 month through 12 months of service
9.4 hours monthly

completion of 12 months through 72 months of service
12.7 hours monthly

completion of 72 months through 132 months of service
16.0 hours monthly

completion of 132 months through 192 months of service
19.4 hours monthly

completion of 192 months of service
22.7 hours monthly

Sick leave account balances on January 1, 2003 will be deposited in the employee's Long Term Illness and Injury Account. Employees will accrue six (6) days annually into the Long-Term Illness/Injury Account as spelled out below:

- a. Employees who have more than five hundred and twenty (520) hours

January 1, 2003, will continue to accrue the six (6) additional days until they leave city employment.

b. Employees who have less than five hundred and twenty (520) hours on January 1, 2003 will continue to accrue the six (6) additional days only until the Illness/Injury Account reaches five hundred and twenty (520) hours. If the LTII account drops to five hundred (500) hours, the employee will begin accruing four (4) hours per month until the account is again at five hundred and twenty (520) hours.

3. Employees may utilize the FLEX-LEAVE Account either as scheduled or unscheduled leave.
 - a. Scheduled leave will be deducted from either the FLEX- LEAVE Account or the Long-Term Illness/Injury Account, whichever is applicable.
 - b. Unscheduled leave will be deducted from the FLEX-LEAVE Account only. Employees who have used Unscheduled Leave five(5) times up to forty(40) hours in a calendar year (pro-rated for part-time employees) will be required to take additional Unscheduled Leave during the calendar year without pay except for those situations spelled out under the DEFINITIONS section of this policy.
4. Employees required to take unscheduled and/or scheduled leave for medical reasons in excess of forty(40) consecutive hours (pro-rated for part-time employees) may use any accumulated paid leave from the Long-Term Illness/Injury Account for any additional consecutive hours of leave for medical reasons. The employee must provide the employer with a statement from her/his attending physician certifying the employee's disabling illness or injury, and duration thereof, before the accumulated leave from the Long-Term Illness/Injury Account is approved for use.
5. Employees with an unused accumulated balance in the FLEX-LEAVE Account on the employee's anniversary date will be allowed to carry the balance into the next year or exercise the option outlined in paragraph six (6). Employees are allowed a maximum accumulation of twelve (12) times their monthly accrual rate in effect on the employee's anniversary date in the FLEX-LEAVE Account. ~~Employees who terminate employment with the City will receive payment for the balance in the FLEX-LEAVE Account accrued through the employee's last day of employment.~~
6. Employees who have an accumulated balance of FLEX-LEAVE in their accounts on their anniversary of less than the annual accrual may elect any combination of the following:
 - a. carry part or all of the balance into the next year,
 - b. ~~convert up to forty-eight(48) hours (pro-rated for part-time employees) to cash at their regular rate on their anniversary date if the Long-Term Illness/Injury Account is at or above five hundred and twenty (520) hours, or the applicable part-time requirement,~~
 - c. transfer hours to the Long-Term Illness/Injury Account.

7. **Employees who have FLEX-LEAVE ACCOUNTS in excess of maximum allowed (See paragraph 5) are required to exercise one of the following options, applicable:**
 - a) **If the Long-Term Illness/Injury Account is less than five hundred and twenty (520) hours, the employee must transfer the excess amount to the Long-Term Illness/ Injury Account until five hundred and twenty (520) hours (pro-rated for part-time employees) is accumulated.**
 - b) **If the Long-Term Illness/Injury Account is already at five hundred and twenty (520) hours, the employee has the option of transferring all or a portion of such excess hours in the FLEX-LEAVE Account to the Long-Term Illness/Injury Account and/or converting up to forty-eight(48) hours (pro-rated for part-time employees) to cash at their regular rate on their anniversary date.**
8. **Employees may donate FLEX-LEAVE Account hours to another employee who is on an unpaid medical leave of absence and has exhausted all paid leave hours.**

IMPLEMENTATION PROCEDURES

- A. **Employees may carry into 2003 vacation and personal leave hours. These hours will be deposited, hour for hour, into the employees FLEX-LEAVE account on January 1, 2003.**
 - B. **Employees will have vacation earned during 2002 for use during 2003 deposited in their FLEX-LEAVE account on January 1, 2003. Those with anniversaries in January will receive 11/12, February 10/12, March 9/12, April 8/12, May 7/12, June 6/12, July 5/12, August 4/12, September May 3/12, October 2/12, November 1/12 of their annual entitlement. Employees with December anniversary dates will not have any vacation earned until January when they receive the first of their monthly accrual deposited into their FLEX-LEAVE account.**
 - C. **Employees will have the balance of their sick leave accounts deposited in their Long-Term Illness/Injury Account on January 1, 2003.**
 - D. **During the transition period, employees may use their Long-Term Illness/Injury Account for illnesses/injuries until July 1, 2003, without being off work for forty (40) consecutive hours for medical reasons. This privilege will cease July 1, 2003 except for those special circumstances discussed elsewhere in the Policy.**
 - E. **Employees with anniversary dates during July through December may run negative balances until the month of their anniversary during 2003 only.**
 - F. **The parties agree to meet in December 2003 to review Appendix A, FLEX-LEAVE Policy, and negotiate necessary cahnges if the Policy is not working. If the parties can not agree on suggested changes, then either party may request a list of five (5) arbitrators from PERB. The parties give the selected arbitrator the same authority as granted arbitrators under Chapter 20.22**
- CODE OF IOWA.**